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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 JOSHUA N. DELEON,

12 Petitioner,

13 v.

14 JEFFREY A. UTTECHT,

15 Respondent.

CASE NO. 19-5424 RJB-JRC

ORDER ON APPLICATION TO  
PROCEED IN FORMA PAUPERIS

16 THIS MATTER comes before the Court on the Petitioner's Motion for Permission to  
17 Appeal *In Forma Pauperis* ("IFP"). Dkt. 18. The Court has considered the motion and  
18 remaining file.

19 In this 28 U.S.C. § 2254 habeas corpus petition, the Petitioner challenges a state court  
20 conviction, by guilty plea, of rape of a child in the first degree, child molestation in the first  
21 degree and second degree, and the resulting May 11, 2018 sentence. Dkt. 1. His direct appeal is  
22 pending in the Washington Court of Appeals Div. II. *Washington v. DeLeon*, Washington Court  
23 of Appeals Div. II case number 51934-8-II. On September 12, 2019, a Report and  
24 Recommendation was filed, recommending that this petition be denied without prejudice for



1 failing to exhaust state court remedies on any of the claims. Dkt. 14. On October 21, 2019 the  
2 undersigned adopted the Report and Recommendation, dismissed the case without prejudice, and  
3 denied the certificate of appealability. Dkt. 16.

4 On November 24, 2019, the Petitioner filed the instant motion to proceed IFP on appeal  
5 (Dkt. 18) and a notice of appeal (Dkt. 19).

6 **Motion to Proceed IFP on Appeal.** A motion to proceed IFP on appeal must be filed in  
7 the district court. *See* Fed. R. App. P. 24. A review of the documentation petitioner has  
8 submitted shows that he is unable to pay the filing fee at this time. The motion to proceed IFP  
9 on appeal (Dkt. 18) is **GRANTED**.

10 **IT IS SO ORDERED.**

11 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
12 to any party appearing *pro se* at said party's last known address.

13 Dated this 3<sup>rd</sup> day of December, 2019.

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16 ROBERT J. BRYAN  
17 United States District Judge  
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